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Guidance on Retirement Compensation

Office of Management and Budget Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*, applicable to Title I under 34 C.F.R. 80.22, employee fringe benefits such as early retirement are an allowable cost to a Federal grant "to the extent the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit." In addition, such benefits must be allocable to Title I-that is, the costs must be relative to the benefits received. A cost that is allocable under a particular award may not be charged to another award to overcome fund deficiencies, to avoid restrictions imposed by law, or terms of the award, or for other reasons.

Q. May Title I funds be used to cover a prorated portion of an employer's share of early retirement costs?

A. Title I funds may be used to cover a prorated portion of an employer's share of early retirement costs that are payable to the Teachers' Retirement System when Title I is the last program for which an employee has been working. Title I funds may be used to pay an employer's share of early retirement costs, provided those costs are reasonable, required by law, agency-employee agreement, or agency policy, and allocated equitably to all related activities. There are at least two ways Title I funds may contribute. A district may charge its Title I program the employer's share of early retirement costs for a given employee in proportion to the number of years the employee benefited the district's Title I program. Thus, an example of a teacher who taught in District X for 15 years, 5 of which were in Title I programs, and in District Y for 15 years, 5 of which were in Title I programs. Because this teacher worked in Title I programs for one-third of his career, you asked whether Title I funds could be used to pay one-third of his early retirement costs. District Y could charge its Title I program 5/30 of the employer's early retirement costs. District Y could not, however, charge its Title I program one-third of those costs — based on the total number of years the employee served Title I programs — because District Y's Title I program did not receive the benefit of one-third of the employee's services. To be allocable to a particular grant, Title I funds must be relative to the benefits received by that grant.

Q. Are there any other options?

A. Another, perhaps more preferable, option would be for a district to establish an early retirement pool to which it would make annual contributions. To determine the annual contribution, the district would apply a fixed rate uniformly to all salaries paid by the district and could charge its Title I program that rate for those employees paid from Title I funds. This option may be preferable because it would avoid having to determine the employment history of each employee. It would also avoid the problem raised by your example of employees who have worked in several districts. Moreover, it would resolve the dilemma posed by a district's inability to plan for early retirements.

Q. Should a district budget for early retirement costs separately from the costs associated with replacement employees?

A. Retirement costs should be budgeted separately because they are not necessarily related. A district's future personnel needs may be independent from the positions filled by early retirees. Moreover, if a district elects to pool early retirement funds, that budget item would be needed in addition to the number of positions a district funded from Title I.

Q. What is the appropriate documentation with respect to early retirement costs?

A. Documentation would differ depending on the method a district uses to support early requirement costs. For example, if a district charges its Title I account based on the number of years an employee provided Title I services, the district should have documents verifying the employee's employment history. If a district establishes an early retirement pool, the district should document the number of employees supported by Title I, the number supported by other funds, the contribution rate, and the amount charged to Title I.

Q. May a school district use money from the following year's allocation to pay the amount the district owed during the preceding year as a result of early retirement?

A. A school district **may not** charge its subsequent year's Title I allocation for costs of early retirement incurred in the prior year. In general, annual appropriations of Federal funds, like Title I funds, are made for a specified fiscal year and are available for obligation only during the fiscal year for which made. (*See* 1 OFFICE OF THE GENERAL COUNSEL, UNITED STATES GENERAL ACCOUNTING OFFICE, PRINCIPLES OF FEDERAL APPROPRIATIONS LAW §5-3 {2d ed. 1991). The Department of Education's fiscal year 2001 appropriations act, for example, specified that Title I funds first became available on July 1 or October 1, 2001 and remain available for obligation through September 30, 2002. (*See* P.L. 106-554) Annual appropriations are available only to meet *bona fide* needs of the fiscal year for which they are appropriated. (*See* PRINCIPLES OF FEDERAL APPROPRIATIONS LAW § 5-3) Absent statutory authority, current appropriations are not available to fund an obligation or liability of a prior obligational period. *Id* At §5-18.) Finally, under §76.708{a) of the Education Department General Administrative Regulations, a district may not obligate funds from a grant award before the later of the date that the State may begin to obligate funds of the date that the district submitted its application to the State in substantially approvable form. As noted above, Title I funds generally become available to States on July 1 of a given year and may thus not be used to liquidate obligations that occurred prior to that date. Planning problems would be alleviated, however, if the school district established an early retirement pool to which it contributed a proportionate amount of Title I funds each year.

Office of Management and Budget Circular A-87 Office of Management and Budget [OMB] Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments

http://www.whitehouse.gov/omb/circulars/a087/a087-all.html